

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Ullas Gargi                                  Art Unit : 2168  
Serial No. : 10/631,369                                  Examiner : Oni, Olubusola  
Filed : July 31, 2003                                      Confirmation No.: 2127  
Title : ORGANIZING A COLLECTION OF OBJECTS

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

INTERVIEW SUMMARY RECORD

I. Telephone Conferences with Examiner Olubusola on May 8, 2007

On May 8, 2007, Examiner Olubusola called Mr. Garcia (undersigned) to discuss the instant application. During this conversation, Examiner Olubusola stated that prosecution of the instant application was being re-opened and that the claims would be subjected to a restriction/election requirement. Mr. Garcia asked Examiner Olubusola to send him a copy of the prior art that was prompting her to re-open prosecution. In response, Examiner Olubusola said that she could not send a copy of such prior art.

During the telephone conference on May 8, Examiner Olubusola also stated that if claims 6 or 7 were incorporated into independent claims 1 and 22, then claims 1 and 22 might be in condition for allowance.

The prior art reference, Platt (U.S. 2003/0009469), was not discussed during the telephone conference on May 8, 2007.

II. Telephone Conferences with Examiner Vo on July 10, 12, and 13, 2007

On July 10, 12, and 13, 2007, Edouard Garcia spoke with Examiner Tim Vo regarding whether there was any support under the Rules for Examiner Olubusola to re-open prosecution of the instant application after the Appeal Brief had been filed solely for the purpose of issuing an election requirement (i.e., without issuing a new ground of rejection).

CERTIFICATE OF TRANSMISSION

I hereby certify that this document is being transmitted to the Patent and Trademark Office via electronic filing on the date shown below.

July 23, 2007

Date of Transmission

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Edouard Garcia

(Typed or printed name of person mailing papers)

Examiner pointed to MPEP § 811 as providing authorization for Examiner Olubusola to re-open prosecution under such circumstances. In particular, Examiner Vo pointed to the underlined language in the following paragraph in MPEP § 811:

37 CFR 1.142(a), second sentence, \*\*>indicates that a restriction requirement "will normally< be made before any action upon the merits; however, it may be made at any time before final action \*\*." This means the examiner should make a proper requirement as early as possible in the prosecution, in the first action if possible, otherwise, as soon as the need for a proper requirement develops.

Mr. Garcia explained to Examiner Vo that in the instant case the Examiner's election requirement is being made after the final action. Mr. Garcia also explained that MPEP § 811 does not say anything about the Examiner's ability to reopen prosecution of an application under appeal, much less anything about the Examiner's ability to re-open prosecution of an application whose claims already had been fully and completely examined on the merits and currently was under Appeal. Examiner Vo did not respond to these points; instead, he said that had no more to say on the matter.

During the telephone conversation on July 13, 2007, Examiner Vo also clarified the following statement that was made in the Interview summary record dated May 22, 2007:

... However, the Examiner indicated that if claim 23-51 are cancelled since they were in a different classification group from claims 1-22 and are restrictable, it will expedite processing the allowance of claim 1-22, if claims 6 or 7 is incorporated to independent claim 1 and 22. Applicant's representative declined and requested Examiner send out an Office Action.

In particular, Examiner Vo said that if claims 6 or 7 were incorporated into independent claim 1 and 22, then the amended claims 1 and 22 would be allowed.

During the telephone conversation on July 13, 2007, Mr. Garcia asked Examiner Vo if he could produce the new art that was prompting Examiner Olubusola to re-open prosecution. In response, Examiner Vo said he did know what art Examiner Olubusola had in mind and that Examiner Olubusola had taken an extended leave of absence and would not return to the Office for some time.

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III. Conclusion

Charge any excess fees or apply any credits to Deposit Account No. 08-2025.

Respectfully submitted,



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